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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,203	09/18/2003	Vinod Philip	2003P13549US	8293

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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER

JOHNSON, JONATHAN J

ART UNIT	PAPER NUMBER
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1725

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/666,203	Applicant(s) PHILIP, VINOD	
	Examiner Jonathan Johnson	Art Unit 1725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) 2-4 and 7-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 6 and 24-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-9 and 24-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1,5,6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amendment filed 1-7-06 is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In particular, applicant claims nano sized particles and micron sized particles, however applicant does not have support for the entire range of either nano sized particles or micron sized particles. Instead, applicant only has support for 45-100 microns (see paragraph 15 as numbered in the in the PG PUB document # 2004/0050913) and 10-100 nm (see paragraph 10 as numbered in the in the PG PUB document # 2004/0050913).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 1725

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by 6,520,401 (Miglietti). Miglietti teaches a braze material comprising a carrier and superalloy filler particles (abstract, col. 3, ll. 25-65 and example 1), where the superalloy filler particles comprises a first portion of small particles and a second portion of micron size particles (col. 6, ll. 20-26), where the smaller particles promote the formation of the braze joint (col. 3, ll. 50-65 and col. 7, ll. 1-25); and where the braze material is substantially free of boron and silicon (col. 6, ll. 30-65, where the braze material has minute amounts of boron, but still meets the claim limitation because it is substantially free of the claimed elements). The examiner interprets the 40 micron powder to be a 40,000 nm sized powder.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,520,401 (Miglietti) as applied to claim 1 above and further in view of WO 96/06700 (Linden). Miglietti teaches a braze material comprising a carrier and superalloy filler particles (abstract, col. 3, ll. 25-65 and example 1), where the superalloy filler particles comprises a first portion of small particles and a second portion of micron size particles (col. 6, ll. 20-26), where the smaller

particles promote the formation of the braze joint (col. 3, ll. 50-65 and col. 7, ll. 1-25). The examiner interprets the 40 micron powder to be a 40,000 nm sized powder. Linden teaches the use of smaller nano scale particles greatly reduces the melting temperature of joining materials (page 46). It would have been obvious to one of ordinary skill in the art to modify the fine grain structure and melting point depressant to utilize the claimed range of nano-scale particles in order to reduce the melting point of the braze material (see Linden page 48) and form a stronger bond (see Linden page 47).

Alternatively, it would have been obvious to one of ordinary skill in the art at the time of the invention to choose the instantly claimed ranges through process optimization, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. See In re Boesch, 205 USPQ 215 (CCPA 1980).

Claims 1, 5, 6, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,520,401 (Miglietti) in view of WO 96/06700 (Linden). Miglietti teaches a braze material comprising a carrier and superalloy filler particles (abstract, col. 3, ll. 25-65 and example 1), where the superalloy filler particles comprises a first portion of small particles and a second portion of micron size particles (col. 6, ll. 20-26), where the smaller particles promote the formation of the braze joint (col. 3, ll. 50-65 and col. 7, ll. 1-25). Linden teaches the use of nano scale particles greatly reduces the melting temperature of joining materials (page 46). It would have been obvious to one of ordinary skill in the art to modify the fine grain structure and melting point depressant to utilize the claimed range of nano-scale particles in order to reduce

the melting point of the braze material (see Linden page 48) and form a stronger bond (see Linden page 47).

Alternatively, it would have been obvious to one of ordinary skill in the art at the time of the invention to choose the instantly claimed ranges through process optimization, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. See In re Boesch, 205 USPQ 215 (CCPA 1980).

Response to Arguments

Applicant cites Wikipedia, Dr. Merkle's article, and a dictionary to show usage of the term. The examiner would like to note that no rejection under 112, second paragraph has been made. Instead, a rejection under 112, first paragraph has been made. In particular, there is no showing that applicant had possession of the broadly claimed range outside of the disclosed 45-100 microns (see paragraph 15) and 10-100 nm (see paragraph 10).

Applicant next argues that the "plain meaning" must be given but fails to cite any supporting case law to support his position. During patent examination, the pending claims must be "given the broadest reasonable interpretation." Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). In the instant case, in applying the Prater test by giving the claim its broadest reasonable interpretation, the examiner interprets the 40 micron powder to be a 40,000 nm sized powder.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

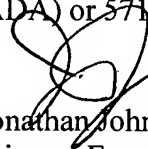
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Johnson whose telephone number is 571-272-1177. The examiner can normally be reached on M-Th 7:30 AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1725

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jonathan Johnson
Primary Examiner
Art Unit 1725

jj